

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

AMERICAN COFFEE HOUSE, INC.,

Plaintiff,

CASE NO. 2:12-CV-13853  
JUDGE GEORGE CARAM STEEH  
MAGISTRATE JUDGE PAUL J. KOMIVES

v.

TRAVELERS CASUALTY INSURANCE  
COMPANY OF AMERICA,

Defendant.

---

**ORDER GRANTING AS UNOPPOSED DEFENDANT'S MAY 2, 2013 MOTION TO  
COMPEL DISCOVERY UNDER FED. R. CIV. P. 37 (Doc. Ent. 14)**

**A. Background**

American Coffee House, Inc. filed this lawsuit against The Travelers Casualty Company of America in Wayne County Circuit Court on July 19, 2012. Doc. Ent. 1-2. The facts underlying the complaint stem from an alleged September 1, 2010 fire which destroyed the business and restaurant. Doc. Ent. 1-2 ¶¶ 5-26. The sole cause of action is breach of contract. Doc. Ent. 1-2 ¶¶ 27-33.

Travelers Casualty Insurance Company of America (Travelers) removed the case to this Court on August 31, 2012. Doc. Ent. 1; *see also* Doc. Ent. 1-3 (Sworn Statement In Proof of Loss). Travelers filed its answer and affirmative defenses the same day. Doc. Entries 3 & 4.

Judge Steeh conducted a scheduling conference on November 6, 2012. His scheduling order of the same date sets the discovery cutoff for June 3, 2013 and the dispositive motion deadline for July 3, 2013. Doc. Ent. 9.

**B. Instant Motion**

On April 5, 2013, Judge Steeh entered a stipulated order (Doc. Ent. 13) to amend the Court's November 6, 2012 scheduling order (Doc. Ent. 9) and to compel outstanding discovery. Among other things, the order set the discovery deadline for September 3, 2013 and the dispositive motion deadline for October 3, 2013. It also provided:

Counsel for Plaintiff also acknowledging that Defendant served Interrogatories and Requests For Production of Documents upon him on or about January 24, 2013, and counsel for Plaintiff being unable to respond to the discovery requests within the time proscribed by the Federal Rules of Civil Procedure.

**IT IS FURTHER ORDERED** that Plaintiff shall have until April 30, 2013, to provide full and complete answers to Defendant's discovery requests.

Doc. Ent. 13 at 2.

Currently before the Court is defendant's May 2, 2013 motion to compel discovery under Fed. R. Civ. P. 37. Specifically, defendant seeks entry of an order compelling plaintiff to answer the January 24, 2013 Interrogatory Nos. 1-18 and Request for Production of Document Nos. 1-3 (*see* Doc. Ent. 14-2) immediately and awarding "costs and fees necessitated by having to file this motion." Doc. Ent. 14 at 3, 7-8.<sup>1</sup>

### **C. Discussion**

"A respondent opposing a motion must file a response, including a brief and supporting documents then available." E.D. Mich. LR 7.1(c)(1). "A response to a nondispositive motion must be filed within 14 days after service of the motion." E.D. Mich. LR 7.1(e)(2)(B).

Defendant filed the instant motion to compel discovery on May 2, 2013. Doc. Ent. 14. Thus, plaintiff's response to the motion was due on or about Monday, May 20, 2013. *See* Fed.

---

<sup>1</sup>Attached to the motion is a copy of defense counsel's March 22, 2013 letter regarding outstanding discovery (Doc. Ent. 14-3); plaintiff's December 12, 2012 Fed. R. Civ. P. 26(a)(1) disclosures (Doc. Ent. 14-4) and plaintiff's January 14, 2013 supplemented Fed. R. Civ. P. 26(a)(1) disclosures (Doc. Ent. 14-5).

R. Civ. P. 6(a)(1)(C), 6(d).

To date, no response has been filed.

**D. Order**

Accordingly, defendant's May 2, 2013 motion to compel discovery under Fed. R. Civ. P. 37 (Doc. Ent. 14) is GRANTED AS UNOPPOSED. Within ten (10) days of the date of this order, plaintiff SHALL serve answers/responses to defendant's January 24, 2013 Interrogatory Nos. 1-18 and Request for Production of Document Nos. 1-3 (*see* Doc. Ent. 14-2).

Furthermore, plaintiff SHALL reimburse defendant for its costs and fees necessitated by the filing of this motion. If counsel for the parties cannot agree upon the terms of this reimbursement, counsel may contact my chambers to request a telephone conference between counsel for the parties and the Court.

IT IS SO ORDERED.

The attention of the parties is drawn to Fed. R. Civ. P. 72(a), which provides a period of fourteen (14) days from the date of receipt of a copy of this order within which to file objections for consideration by the district judge under 28 U.S.C. § 636(b)(1).

Dated: May 21, 2013

s/ Paul J. Komives  
PAUL J. KOMIVES  
UNITED STATES MAGISTRATE JUDGE

**PROOF OF SERVICE**

I hereby certify that a copy of this order was served upon Counsel of Record on this date.

Dated: May 21, 2013

s/ Lisa C. Bartlett  
Case Manager